

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Jeff Hulbert, *et al.*

Plaintiffs,

v.

Sgt. Brian Pope, *et al.*

Defendants.

Civil No.: 1:18-CV-00461-SAG

PLAINTIFFS' MOTION TO COMPEL

Come now the Plaintiffs, by and through undersigned counsel, and submit the aforesaid Motion to Compel, the State's Opposition to Plaintiffs' Motion to Compel, and Plaintiff's Reply, stating as follows:

1. The parties in this case have been attempting to resolve an outstanding discovery dispute relating to the State's redaction of several emails produced to Plaintiffs in response to Plaintiff's discovery requests.

2. The parties have diligently worked to resolve the dispute without requiring the intervention of this Court, which has included negotiations and discussions spanning nearly a year and the briefing of multiple motions to compel and oppositions thereto.

3. The parties have resolved many of the discovery disputes raised in that period, but have been unable to resolve a few remaining issues relating to the redaction of specific emails. Pursuant to this Court's instruction to brief a single motion to compel and opposition thereto that covers solely the issues that remain outstanding, the parties have briefed the attached Motion to Compel, Opposition, and Reply.

4. The briefed Motion to Compel, Opposition, and Reply relate to discovery disputes over the State's redaction of one specific email, described as the "Arrest Email" in Plaintiffs'

Motion to Compel, and one specific email chain, described as the “Question about Charges Emails” in Plaintiffs’ Motion to Compel.

5. After fully briefing the Motion to Compel, Opposition, and Reply, the parties met telephonically prior to filing for a final attempt to resolve the outstanding disputes. At the meeting, State’s counsel informed Plaintiffs’ counsel that the “Arrest Email” had actually been produced fully unredacted in connection with a prior deposition, which neither counsel had realized prior to briefing. As the “Arrest Email” had been produced unredacted, this discovery issue became moot.

6. The parties were unable to resolve the dispute relating to the redactions of the “Question about Charges Emails.” Accordingly, Plaintiffs submit their Motion to Compel and related filings to this Court for adjudication on issues raised regarding the “Question about Charges Emails” only.

7. In Plaintiffs’ Motion to Compel, Plaintiffs identified the emails in dispute in Section III.A, on pages 19-20. The “Question about Charges Email” were identified in #1 and #2 of the listed emails and are reproduced in Plaintiffs’ Exhibit CC and Exhibit U. The “Arrest Email” was identified in #3 through #6 and were reproduced in Plaintiffs’ Exhibit DD, Exhibit EE, and Exhibit FF.

8. Thus, Plaintiffs respectfully request that this Court review their Motion to Compel as it relates to the “Question about Charges Emails” and disregard Plaintiffs’ Motion to Compel to any extent the motion relates to the “Arrest Email.”

9. The basis of the discovery dispute raised by each party is as follows:

a. Plaintiffs seek the unredacted production of the Question about Charges Emails that the State redacted under the Executive/Deliberative Process Privilege. Plaintiffs allege that the Question about Charges Emails are not shielded by the privilege

as the emails are not predecisional or deliberative, and even if the emails were predecisional or deliberative, exceptions to the privilege would apply to all or part of the emails at issue.

b. The State has opposed Plaintiffs' motion, alleging that a portion of Plaintiffs' motion is untimely, the Executive/Deliberative Process Privilege shields the Question about Charges Emails, and no exceptions to the privilege apply.

10. Plaintiffs respectfully request that this Court resolve the issues raised in the attached Motion to Compel regarding the redaction of the Question about Charges Emails, as the parties are unable to resolve these issues without the intervention of this Court, despite the parties' best efforts at resolution.

WHEREFORE, Plaintiffs respectfully request that this Court grant Plaintiffs' attached Motion to Compel and order the State to produce the Question about Charges Emails unredacted to Plaintiffs on or before seven days after the entry of the order at 4:30 p.m., and for such further relief as the Court may grant in the interest of justice.

Respectfully submitted,

HANSEL LAW, PC

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January, 2021, I caused the foregoing to be filed via the Court's electronic filing system, which will make service on all parties entitled to service.

/s/ Cary J. Hansel
Cary J. Hansel